

‘An increasingly uncomfortable environment’: Access to healthcare for documented and undocumented migrants in the UK

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Context

- 2004 - Introduction of NHS hospital charges for refused asylum seekers
- 2004 - consultation on primary health care charges
- 2008 - legal challenge to refusal to treat refused asylum seekers
- 2008-9 Immigration and Citizenship Bill (“Simplification” Bill)

Aim of paper

- to contextualise changes in regulations historically and in terms of contemporary political discourse
- to indicate complexity, contradictions and impact of current regulations on both documented and undocumented migrants

Terminology

Undocumented migrant - without permit authorising regular stay. Includes:

- overstaying visas
- refused asylum seekers
- entered without visas (includes trafficked)
- spouses whose partner refuses to regularise their status

Estimated Numbers

c. 430,000 (<0.7% UK population) (Home Office 2005)

NHS and foreigners

- NHS Act 1949 - included powers to allow Minister to impose charges for people not “*ordinarily resident*” in UK
- Charging of people not “*ordinarily resident*” formally implemented 1982

“Health Tourism”

- Pre 2002 never mentioned in parliament
- 2003 “health tourism” linked to exploitation of NHS by “failed” asylum seekers
- “Health tourism” justification for revising charging regulations
- No data ever collected on numbers of “health tourists” using NHS

“the NHS is becoming the health equivalent of Disneyland for tourists... Hundreds of thousands of people who have failed the asylum process are trying to use our healthcare system. This means British citizens already waiting for treatment have to wait longer” (Liam Fox Shadow Health Secretary 2003)

“proposals to amend these (Overseas Visitors) Regulations (are intended) to remove certain loopholes that have been exploited by health tourists. In particular anyone who has no legal basis to remain in the United Kingdom will be liable to be charged for NHS treatment. (Beverley Hughes Under-Secretary of State Home Office, 2004)

“Enforcing the Rules”

- 1989 NHS charging regulations required “reasonable” *enquiries* into liability for charging
- 2004 regulations - NHS Hospital Trusts have *statutory role* to determine eligibility of patients to free care
- “*Enforcing the Rules*” Home Office 2007 - devolution of responsibility for identifying people not legally entitled to services in order to apply sanctions to those living in UK illegally

“Those not prioritised for removal..... should be denied the benefits and privileges of life in the UK and experience an increasingly uncomfortable environment so that they elect to leave.”

*(Enforcing the Rules: A strategy to ensure and enforce compliance with our immigration laws
Home Office March 2007)*

Entitlement to NHS care according to immigration status

Immigration status	NHS primary care			NHS secondary care			Private provider
	Free	At discretion of GP (1)	Contested	Free	Payment in advance (2)	Contested	Free
UK citizen who are ordinarily resident	Free			Free			
UK citizen who are not ordinarily resident		At discretion of GP (1)			Payment in advance (2)		
Documented migrant who is ordinarily resident (3)	Free			Free			
Documented migrant - not ordinarily resident (3)		At discretion of GP (1)			Payment in advance (2)		
Refugee with leave to remain	Free			Free			
Asylum seeker in community	Free			Free			
Detained asylum seeker							Free
Refused (failed) asylum seeker			Contested			Contested	
Undocumented migrant (4)		At discretion of GP (1)			Payment in advance (2)		

- (1) Free treatment available for TB and STIs (excluding HIV/AIDS)
- (2) Payment required in advance of receiving care except for: 'immediately necessary' treatment, emergency treatment in Accident and Emergency, compulsory mental health treatment, treatment for TB, treatment for STIs (excluding HIV/AIDS)
- (3) There are numerous exceptions relating to nationality and visa type.
- (4) Excluding refused asylum seekers

Confusion about entitlement

A Chinese woman asylum seeker sought maternity care from a hospital shortly after her arrival in the country. The hospital gave her a scan as emergency treatment, but refused another appointment. Instead, the midwife asked her to go to the Overseas Visitor Manager. When she saw the Overseas Visitor Manager, there was no interpreter and she did not know what was going on. Midwifery staff refused subsequent appointments and referred her back to the Overseas Visitor Manager. She sought assistance from a voluntary organisation. An advocate advised the hospital that the woman was entitled to care as an asylum seekers and she was given an appointment (Medact unpublished research.)

Effect of GP discretion and hospital charging

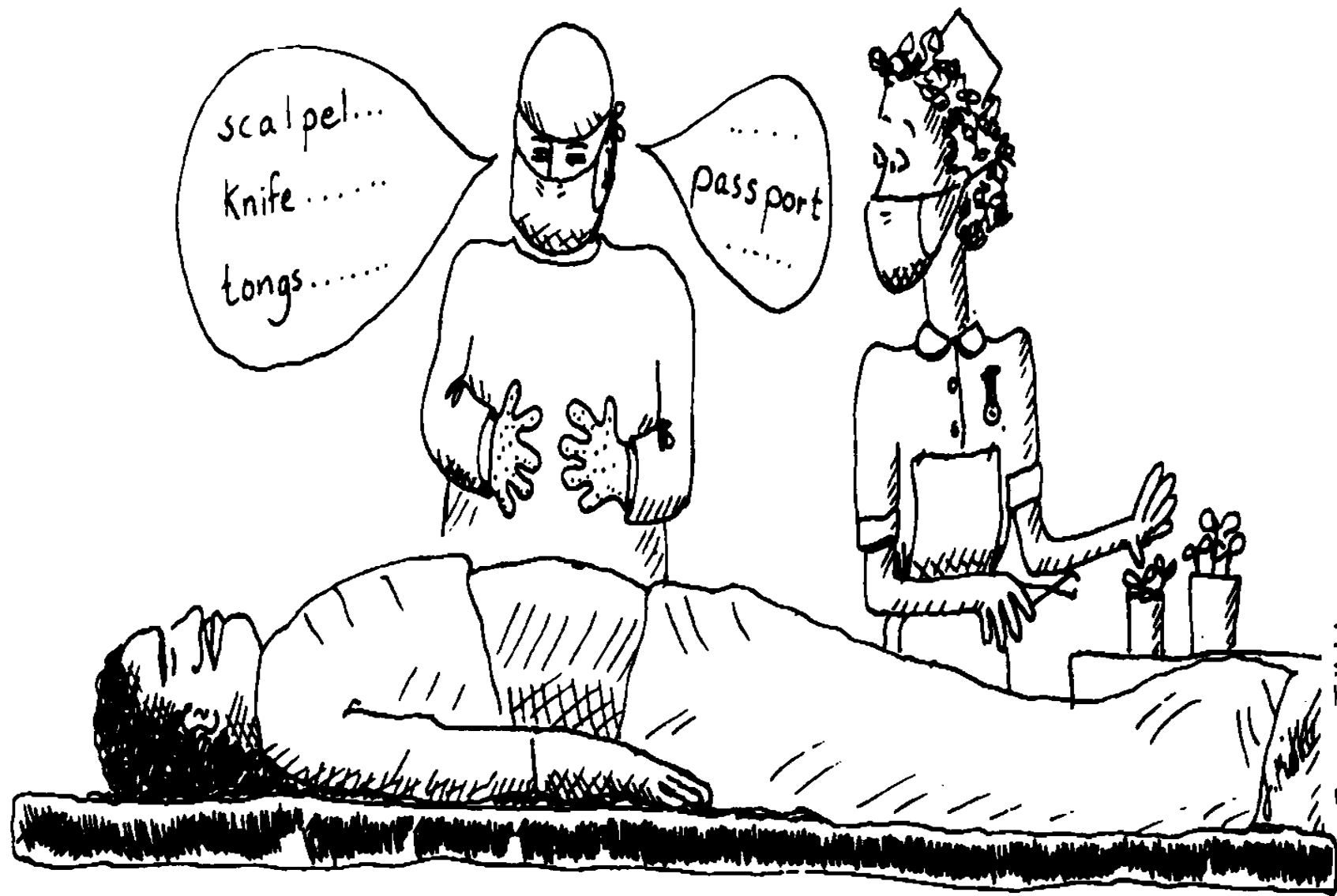
J is a Roma woman with diabetes and high blood pressure. She was referred to [the Refugee Council] after being turned away by every local GP in her area. When she went to her local Accident and Emergency department, they too turned her away, saying her condition wasn't life threatening or an emergency, that if she wanted healthcare, she would have to pay. J is destitute. (Kelley & Stevenson 2006)

Court challenge 2008

- entitlement to free hospital treatment for refused asylum seekers
- what does “ordinarily resident” mean?

Implications of current and proposed policies

- Public health
- Individual health
- Barriers to treatment access
- Contradictions in health policy
- Undermining integration strategies



Fanny Tribble